



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,181	03/10/2004	Dory Tuvim	9680.248US01	5290

23552 7590 06/30/2006

MERCHANT & GOULD PC  
P.O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

EXAMINER
----------

LUPINO, GINA M

ART UNIT	PAPER NUMBER
----------	--------------

3652

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/798,181	<b>Applicant(s)</b> TUVIM, DORY	
	<b>Examiner</b> Gina M. Lupino	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **I. Oath/Declaration**

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It was not executed in accordance with either 37 CFR 1.66 or 1.68.

Thus, the Examiner suggests the Applicant properly execute the Oath/Declaration in accordance with 37 CFR 1.66 or 1.68.

### **II. Drawings**

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include reference character 100, which is not mentioned in the description. See Figures 1, 2, and 4.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.
  - 2.1. A term used in a claim is inconsistent with terms that are used in the specification though not indicated on any drawings. For example:
    - 2.1(a) In claim 1, lines 2, 8, 11, 12, and claim 3, lines 25, 26, "lifting holes" must be shown on a drawing.
    - 2.1(b) In claim 1, line 4, "tractor" must be shown on a drawing.
    - 2.1(c) In claim 1, lines 7, 9, 10, 11, 13, and claim 2, lines 14, 19, 22, "lifting member(s)" must be shown on a drawing.
    - 2.1(d) In claim 2, line 15, "vertical beam" must be shown on a drawing.
    - 2.1(e) In claim 3, lines 20, 24 "cylinder(s)" must be shown on a drawing.

Art Unit: 3652

2.1(f) In claim 3, lines 21, 24, 25, "slot" must be shown on a drawing.

2.1(g) In claim 3, lines 20, 23, 25, 26, "hook" must be shown on a drawing.

2.1(h) In claim 4, line 4, "gate" must be shown on a drawing.

2.2. Therefore, the above-referenced features must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show features, features as described in the specification, including the following:

3.1(a) "Lifting member 30". See page 4, line 16, page 5, line 1.

3.1(b) "Cylinder 31". See page 4, lines 16-17, page 5, lines 12, 17.

3.1(c) "Slot 37". See page 4, line 28, page 5, line 20.

3.1(d) "Bottom end". See page 5, line 13.

3.2. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### **III. Specification**

4. The Specification is objected to because of the following informalities:

- 4.1. In multiple places throughout pages 3 - 6, "trailer" should be labeled -- 10 --.
- 4.2. On page 3, line 22, and page 6, line 7, "frame" should be labeled -- 11 --.
- 4.3. On page 3, line 23, page 4, lines 6, 11, and page 6, line 7, "holes" should be labeled with a reference character.
- 4.4. On page 3, line 23, "lifting points" should be labeled with a reference character.

- 4.5. On page 3, line 22, and page 5, line 9, "lifting members" should be labeled with a reference character.
- 4.6. On page 4, reference character "15" has been used to designate "vertical beams", "front beams", and "rear beams". Thus, the Examiner suggests the Applicant clarify whether reference character 15 refers to "vertical beams", "front beams", or "rear beams".
- 4.7. On pages 4, line 20, and page 5, lines 12, 17, reference character "33" has been used to designate both "lifting hook" and "lifting finger". Thus, the Examiner suggests the Applicant clarify whether reference character 33 refers to "lifting hook" or "lifting finger".
- 4.8. On page 4, line 2, "wheels" should be labeled -- 13 --.
- 4.9. On page 4, line 20, page 5, line 2, "lifting hook(s)" should be labeled with a reference character.
- 4.10. On page 4, lines 21, 22, page 5, line 3, "hook(s)" should be labeled with a reference character.
- 4.11. On page 4, line 1, "axle" should be labeled with a reference character.
- 4.12. On page 4, line 24 and page 6, line 24 "lifting finger" should be labeled with a reference character.
- 4.13. On page 5, lines 10, 14, 17, "lifting hole" should be labeled with a reference character.
- 4.14. On page 5, lines 5, 7, 10, and page 6, lines 5, 6, 7, 8 "container" is labeled "10", but should be labeled -- 90 --.
- 4.15. On page 5, lines 4, 14, 18, 20, 23, page 6, lines 5, 6, "container" should be labeled -- 90 --.
- 4.16. On page 5, line 13, "slot" should be labeled with a reference character.
- 4.17. On page 5, line 19, "top cross members" should be labeled with a reference character.
- 4.18. On page 5, line 27, "cylinders" should be labeled with a reference character.

Art Unit: 3652

- 4.19. On page 5, line 30, "wheel" should be labeled with a reference character.
- 4.20. On page 5, line 31, "tractor" should be labeled with a reference character.
- 4.21. On page 6, line 1 "gate" should be labeled with a reference character.
- 4.22. All patent applicants should use metric (S.I.) units followed by equivalent English units when describing their inventions in the specifications of patent applications. The following should be presented in metric units followed by English units:
  - 4.22(a) On page 3, line 25, "12-48 inches".
  - 4.22(b) On page 4, line 7, "4 inches".
  - 4.22(c) See MPEP 608.01 (subsection IV).

#### **IV. Claim Rejections - 35 USC § 112**

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- 5.1. Claim 3 recites the following limitations:

5.1(a) "said beam" in lines 26 and 28-29. However, it is unclear whether "said beam" refers to the rear beam or the front beam, which are both disclosed in claim 2. Thus, claim 3 is indefinite and further clarification is necessary. See claim 3, line 26, 28-29.

5.1(b) "inwardly biased" in lines 25-26. However, the direction of "inwardly biased" lifting hooks with respect to the surrounding elements is unclear. Thus, absence of clarification regarding the direction of "inwardly biased" with respect to the hydraulic

cylinder, beam, and lifting members renders claim 1 indefinite. Further clarification is necessary. See claim 3, lines 26-27.

**V. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by MCKENZIE (U.S. Patent No. 4,213,728).

6.1. With respect to claim 1 MCKENZIE discloses a trailer for transporting a container with:

6.1(a) Lifting holes at least at each corner of a container. See Figure 4, column 3, lines 57-64, and column 6, lines 35-36.

6.1(b) A generally U-shaped frame. See Figure 1, 7 and column 2, line 67.

6.1(c) Where the front of the frame has a means for removably attaching the trailer to a tractor. See Figures 1, 2, 7, 8 column 3, lines 48-49, and column 4, lines 15-17.

6.1(d) The frame being shaped and sized to receive a container within the frame. See Figures 1, 7 and column 2, lines 56-57, 60, 65-66, column 3, lines 57-64, and column 4, lines 43-44.

6.1(e) Wheels 4 on each side of the frame. See Figures 1, 2, 7, 8 and column 3, lines 49-52.

6.1(f) A plurality of retractable lifting members (See Figures 2, 4, 8 and column 4, line 23), where each member is:



6.1(f)(i) Positioned proximate a lifting hole on the container when the container is received within the frame. See Figures 1,2, 4 and column 4, lines 20-26.

6.1(f)(ii) Movable between an inoperative position when members are disengaged from the lifting holes, and an operative position when the members engage the lifting holes. See Figures 1,2, 4 column 3, lines 57-64, and column 4, lines 21-35.

6.1(f)(iii) Extendable to lift the container (See column 4, lines 27-35), and

6.1(g) A means for controlling the plurality of lifting members. See column 2, lines 61-62, and column 3, lines 4-9.

#### **VI. Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over MCKENZIE (U.S. Patent No. 4,213,728) in view of CLARKE (U.S. Patent No. 3,536,161).

7.1. With respect to claim 2, MCKENZIE discloses a trailer for transporting a container, as discussed above.

7.2. However, MCKENZIE fails to teach:

7.2(a) Lifting members that are housed in a substantially vertical beam fastened to the frame,

7.2(b) Front beams that are interconnected at a top portion with a top cross member, and

7.2(c) Rear beams that are interconnected at a top portion with another top cross member

7.3. CLARKE teaches:

7.3(a) Lifting members 15-18 that are housed in substantially vertical beams 15-18 fastened to a frame 10a-c. See Figures 1, 2, 3 and column 1, lines 66-68, 73-75, and column 2, lines 1-7.

7.3(b) Front beams 15, 18 that are interconnected at a top portion with a top cross member 11, and

7.3(c) Rear beams 16, 17 that are interconnected at a top portion with another top cross member 10.

7.3(d) Therefore, it would have been obvious to one of ordinary skill in the art to modify MCKENZIE with lifting members, front and rear beams, and the top cross members of CLARKE in order to house lifting members in substantially vertical beams interconnected by front and rear beams.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over MCKENZIE (U.S. Patent No. 4,213,728) in view of CLARKE (U.S. Patent No. 3,536,161) and KELE (U.S. Patent Publication No. 2002/0061247 A1).

8.1. With respect to claim 3, MCKENZIE discloses a trailer for transporting a container, as discussed above, where the beam includes a vertical slot having a predetermined length. See Figure 4 and column 3, lines 59-60.

8.2. However, MCKENZIE fails to teach:

8.2(a) Lifting members that consist of a hydraulic cylinder with an inwardly biased lifting hook,

8.2(b) Where when the lifting members are in an inoperative position, the hydraulic cylinders are retracted and the hooks are located within the beam below a bottom end of the slot,

8.2(c) Where when the cylinders are extended, the hook deploys outside of the slot until contact with the container's lifting hole, and

8.2(d) Where the lifting hook engages the lifting hole and lifts the container until a top portion of the container contacts a bottom portion of each top cross member.

8.3. CLARKE teaches:

8.3(a) Lifting members 15-18 with a hydraulic cylinder 28, where when the lifting members 15-18 are in an inoperative position, the hydraulic cylinders 28 are retracted. See Figure 2 and column 2, lines 3-4.

8.3(b) Therefore, it would have been obvious to one of ordinary skill in the art to modify MCKENZIE with the hydraulic cylinders of CLARKE in order to retract the beam.

8.4. KELE teaches:

8.4(a) Lifting members 18 with inwardly biased lifting hooks 21 that,

8.4(a)(i) Are located within a beam 11 below the bottom end of a slot when lifting members are in an inoperative position,

8.4(a)(ii) Are capable of deploying outside a slot when contacting a container's lifting hole, when lifting beam members are in an operative position, and

8.4(a)(iii) Are capable of engaging a lifting hole and lifting a container until the top portion of the container contacts a bottom portion of each top cross member.

8.4(a)(iv) See Figure 2, paragraph 32, lines 4-7, and paragraph 34, lines 1-13.

8.4(b) Therefore, it would have been obvious to one of ordinary skill in the art to modify MCKENZIE with the lifting hooks of KELE in order to lift the container.

Art Unit: 3652

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over MCKENZIE (U.S. Patent No. 4,213,728) in view of TAYLOR (U.S. Patent No. 3,724,695).

9.1. With respect to claim 4, MCKENZIE discloses a trailer for transporting a container, as discussed above.

9.2. However, MCKENZIE fails to teach a rear gate.

9.3. TAYLOR teaches a trailer 10 with a rear gate. See Figures 1, 3 and column 4, lines 14-21. Therefore, it would have been obvious to one of ordinary skill in the art to modify the trailer of MCKENZIE with the rear gate of TAYLOR.

#### **VII. Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina M. Lupino whose telephone number is (571) 272-6557. The examiner can normally be reached on 8:30am - 5:00pm EST.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to

Art Unit: 3652

the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

14. GML

A handwritten signature in black ink that reads "Kathy Matecki". The signature is written in a cursive, flowing style.

**KATHY MATECKI**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**